

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

WILLIAM LONIN,

Petitioner,

v.

**Civil Action no. 3:07cv21
(Judge Maxwell)**

**WARDEN, NORTHERN REGIONAL
JAIL AND CORRECTIONAL
FACILITY, PRISON SIDE,**

Respondent.

**REPORT AND RECOMMENDATION
THAT CASE BE DISMISSED WITHOUT PREJUDICE**

On January 8, 2007, the Court received a letter and documents styled “Petition under W.Va. Code § 53-4A-1 for Writ of Habeas Corpus” from the *pro se* Petitioner, William Lonon, along with numerous pages of “supporting facts.” Further, on January 24, 2007, the Court received an additional letter from Petitioner.

A review of the file indicated that this matter should proceed as a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. Therefore, by *Nunc Pro Tunc Order* dated February 7, 2007, the Clerk was directed to file the papers styled “Petition under W.Va. Code § 53-4A-1 for Writ of Habeas Corpus” as a petition under 28 U.S.C. § 2254 as of January 8, 2007, the date the initial papers were received by this Court. As well, the Clerk was directed to mail the appropriate forms for filing a habeas petition under 28 U.S.C. § 2254 to the Petitioner. Finally, the Order directed the Petitioner to complete the appropriate forms necessary to initiate a 28 U.S.C. § 2254 civil action and return them to the Clerk within twenty days from the date of entry of the Order.

A review of the file shows that as of the date of this Opinion, Petitioner has not submitted the required forms. Moreover, the Order that was mailed to the Petitioner to the prison side of the

Northern Regional Jail and Correctional Facility was returned as undeliverable. Inasmuch as this Court has no way of communicating with the Petitioner further, it is the recommendation of the undersigned that the instant case be **DISMISSED** without prejudice for the failure to prosecute unless the Court hears to the contrary within ten (10) days from the date of this Order. Any pleadings, motions, letters or other documents filed in response to this Report and Recommendation should be submitted to the Honorable Robert E. Maxwell, United States District Judge. Failure to timely file objections to this recommendation will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to mail a copy of this Report and Recommendation to the *pro se* Petitioner, at his last know address.

DATED: May 8, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE